

## REMARKS

By this amendment, Applicant has amended claims 1, 10, 15, and 20. As a result, claims 1-20 remain pending in this application. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicant does not acquiesce in the correctness of the objections and rejections and reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Initially, Applicant thanks the Examiner for noticing the allowable subject matter of claims 7 and 8. Further, Applicant thanks the Examiner for noticing the allowable subject matter of claims 4 (incorrectly indicated as claim 3 in paragraph 11 of the Office Action), 9, 14, 19, and 20 if the claims are rewritten to overcome their alleged indefiniteness.

In the Office Action, the Office rejects claims 4, 9-14, 19, and 20 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. In particular, with respect to claims 4 and 19, the Office alleges that the term "radius" is unclear. To this extent, the Office notes that the test pattern is substantially rectangular and not circular. In response, Applicant notes that, with respect to a polygon, such as a rectangle, radius is defined as "a line segment that joins the center of a regular polygon with any of its vertices". See, e.g., definition 1c in *The American Heritage® Dictionary of the English Language, Fourth Edition* available at [www.dictionary.com](http://www.dictionary.com). Support for this definition is clearly shown in, for example, FIG. 1 and the corresponding text that identifies radius axes 23A-D. As a result, Applicant respectfully requests withdrawal of the rejection of claims 4 and 19 as allegedly being indefinite.

With respect to claims 10 and 20, the Office alleges that the phrase "at least one feature that varies in size..." is unclear. By this response, Applicant has amended claims 10 and 20 to state that "at least one feature size that varies in size..." Applicant respectfully submits that the amended language is not indefinite. As a result, Applicant respectfully requests withdrawal of the rejection of claim 10 and claims 11-14, which depend therefrom, and claim 20 as allegedly being indefinite.

Additionally, Applicant notes that the Office cites claim 9 as allegedly being indefinite. However, the Office fails to give any reasons for this holding. Applicant cannot determine what portion of the claim is allegedly indefinite. As a result, Applicant respectfully requests withdrawal of the rejection of claim 9 as allegedly being indefinite or that the Office particularly point out that portion of the claim that is believed to be indefinite.

Further, the Office rejects claims 1-3, 5, 6, and 15 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,765,282 (Schulz). With respect to claim 1, Applicant respectfully submits that Schulz fails to disclose, *inter alia*, the claimed interleaving of patterns such that substantially all of a vertical area of the test pattern intersects at least one horizontal line pattern and substantially all of a horizontal area of the test pattern intersects at least one vertical line pattern. In support of its rejection, the Office alleges that regions 204 allegedly disclose the claimed vertical and horizontal line patterns. However, interpreting Schulz only for the purposes of this response, Applicant notes that regions 204 are not configured such that substantially all of a vertical area of the test pattern intersects at least one horizontal line pattern and substantially all of a horizontal area of the test pattern intersects at least one vertical line pattern. Because this feature is lacking from Schulz, Applicant respectfully requests withdrawal

of the rejection of claim 1 and claims 2-3, and 5-6, which depend therefrom, as allegedly being anticipated by Schulz.

With respect to claim 15, Applicant respectfully submits that Schulz fails to disclose, *inter alia*, the claimed feature pattern that includes a plurality of sub-patterns. In support of its rejection, the Office alleges that regions 213, 214 of Schulz allegedly disclose the claimed feature patterns. However, Applicant notes that neither region 213 nor region 214 includes a sub-pattern. Because this feature is lacking from Schulz, Applicant respectfully requests withdrawal of the rejection of claim 15 as allegedly being anticipated by Schulz.

Further, the Office rejects claims 10 and 13 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Publication No. 2003/0165749 (Fritze) in view of U.S. Patent No. 4,644,637 (Temple). With respect to claim 10, Applicant notes that contrary to the Office's assertion, Fritze fails to disclose, *inter alia*, a test pattern that includes a plurality of feature patterns. In support of its rejection, the Office cites paragraph 0173 of Fritze as allegedly disclosing these features. However, interpreting Fritze only for the purposes of this response, at most, this portion of Fritze is limited to a layout that includes narrow line features, contact holes, or pillar arrays. To this extent, the cited portion of Fritze is unrelated to test patterns in general, let alone a test pattern that includes a plurality of feature patterns each of which includes a plurality of sub-patterns. Additionally, the combination of Fritze with Temple does not cure this defect. As a result, Applicant respectfully requests withdrawal of the rejection of claim 10 and claim 13, which depends therefrom, as allegedly being unpatentable over Fritze in view of Temple.

With further respect to claim 10, Applicant respectfully submits that Fritze fails to disclose a feature pattern that includes a plurality of sub-patterns that include a set of finger arrays, a plurality of sets of positive tone holes and a plurality of sets of negative tone holes. The Office also relies on paragraph 0173 of Fritze as allegedly disclosing these features. However, as noted above, this portion of Fritze is limited to a layout that includes narrow line features, contact holes, or pillar arrays, but not a combination of all three. In fact, Fritze clearly indicates that the production of only one of the three are alternative embodiments. In sharp contrast, Applicant's claimed feature patterns include a set of finger arrays, a plurality of sets of positive tone holes and a plurality of sets of negative tone holes. Such a configuration is not fairly suggested by Fritze without the benefit of the hindsight of Applicant's claimed invention. Additionally, the combination of Fritze with Temple does not cure this defect. As a result, Applicant respectfully requests withdrawal of the rejection of claim 10 and claim 13, which depends therefrom, as allegedly being unpatentable over Fritze in view of Temple.

With further respect to claim 10, the Office takes official notice "that it is well known to have the wafer comprise a plurality of dies" (paragraph 8 of office action). Applicant objects to the official notice and requests that the Office provide documentary support for its assertion. Regardless, even if, *arguendo*, the official notice is proper, Applicant notes that the noticed fact is not relevant to the claimed invention. In particular, a wafer comprising a plurality of dies does not in any way fairly disclose or suggest the claimed test pattern having a plurality of feature patterns each of which includes a plurality of sub-patterns. Additionally, Applicant respectfully submits that the Office fails to make a *prima facie* showing that it is known in the art to apply a test pattern comprising the plurality of feature patterns as in the claimed invention to a wafer

using a plurality of dies. As a result, Applicant respectfully requests withdrawal of the rejection of claim 10 and claim 13, which depends therefrom, as allegedly being unpatentable over Fritze in view of Temple.

Further, the Office apparently rejects claims 11 and 12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Fritze in view of Temple and further in view of U.S. Patent No. 5,308,682 (Morikawa). Applicant notes that the Office incorporates its interpretation of Fritze in view of Temple as allegedly disclosing the features of claim 10 from which these claims depend. To this extent, Applicant herein incorporates the arguments presented above with respect to claim 10. As a result, Applicant respectfully requests withdrawal of the rejection of claims 11 and 12 as allegedly being obvious in view of Fritze in view of Temple and further in view of Morikawa.

Further, the Office rejects claim 16 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schulz. Applicant notes that the Office incorporates its interpretation of Schulz as allegedly disclosing the features of claim 15 from which this claim depends. To this extent, Applicant herein incorporates the arguments presented above with respect to claim 15. As a result, Applicant respectfully requests withdrawal of the rejection of claim 16 as allegedly being obvious in view of Schulz.

Further, the Office rejects claims 17-18 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schulz in view of U.S. Patent No. 5,847,818 (Lin). Applicant notes that the Office incorporates its interpretation of Schulz as allegedly disclosing the features of claim 15 from which these claims depend. To this extent, Applicant herein incorporates the arguments

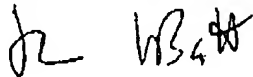
presented above with respect to claim 15. As a result, Applicant respectfully requests withdrawal of the rejection of claims 17-18 as allegedly being obvious in view of Schulz.

Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter.

Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,



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